

*except that changes to the Internal Revenue Code made by*

(q), and 405 of P.L. 109-135, P.L. 109-151, P.L. 109-222, excluding sections 101, 207, 209, 503, and 513 of P.L. 109-222, P.L. 109-227, P.L. 109-280, excluding section 844 of P.L. 109-280, P.L. 109-432, excluding sections 101, 104, 108, 109, 112, 113, 116, 118, 120, 123 (a), 204, 209, 302, 303, 304, 305, 307, 401, 404, 417, and 425 of P.L. 109-432, P.L. 110-28, excluding sections 8212, 8221, 8233, and 8235 of P.L. 110-28, P.L. 110-141, P.L. 110-142, P.L. 110-166, P.L. 110-172, excluding section 11 (b), (e), and (g) of P.L. 110-172, P.L. 110-234, excluding sections 15344 and 15345 (a) (1) to (3) and (6) of P.L. 110-234, P.L. 110-245, excluding sections 110 and 113 of P.L. 110-245, P.L. 110-289, excluding sections 3081 and 3082 of P.L. 110-289, sections 109, 201, 209, 210, 303, 306, and 308 of division B of P.L. 110-343, and sections 202, 203, 305, 311, 312, 315, 317, 318, 502 (a) and (b), 505, 702 (a) (1) (A) as it relates to section 1400N (k) of the Internal Revenue Code, 702 (d) (6), 707, 708, 710, and 711 of division C of P.L. 110-343, except that "Internal Revenue Code" does not include section 847 of the federal Internal Revenue Code. The Internal Revenue Code applies for Wisconsin purposes at the same time as for federal purposes. Amendments to the federal Internal Revenue Code enacted after December 31, 2007, do not apply to this paragraph with respect to taxable years beginning after December 31, 2007.

#### SECTION 9143. Nonstatutory provisions; Revenue.

(1) INTERNAL REVENUE CODE UPDATE. Changes to the Internal Revenue Code made by Public Law 110-28, excluding sections 8212, 8221, 8233, and 8235 of Public Law 110-28, apply to the Internal Revenue Code definitions in chapter 71 of the statutes at the time that the changes first apply for federal tax purposes.

(END)

*apply for Wisconsin purposes at the same time as for federal purposes*

*as it relates to taxable years beginning in 2008;*

**Kreye, Joseph**


---

**From:** Lillethun, Chad W - DOA [Chad.Lillethun@wisconsin.gov]  
**Sent:** Wednesday, January 21, 2009 9:05 AM  
**To:** Kreye, Joseph  
**Subject:** FW: IRC Update  
**Attachments:** IRC update revised-Jan 20 2008.doc; Worker RETiree REcovery Act.doc

Joe - Here are the remaing IRC update instructions. This relates specifically to the update I alerted you to on Monday.  
 Thanks.

-Chad

---

**From:** Raes, Julie M - DOR  
**Sent:** Tuesday, January 20, 2009 8:02 PM  
**To:** Lillethun, Chad W - DOA  
**Cc:** Gates-Hendrix, Sherrie L - DOR  
**Subject:** FW: IRC Update

Chad,

Attached is the language you requested. As Marcy states below, the changes are in blue.

Please let me know if there's anything else you require.

Thank you,  
 Julie

Julie Raes  
 Legislative Specialist  
[julie.raes@revenue.wi.gov](mailto:julie.raes@revenue.wi.gov)  
 608.267.9892 (phone)  
 608.261.8240 (fax)

---

**From:** Stock, Marcella L - DOR  
**Sent:** Tuesday, January 20, 2009 2:19 PM  
**To:** Gates-Hendrix, Sherrie L - DOR; Raes, Julie M - DOR  
**Cc:** Boldt, Rebecca A - DOR; Hanson, Jeffrey W - DOR; Crane, Lili B - DOR; Miller, Wendy J - DOR; Candelaria, Axel F - DOR  
**Subject:** FW: IRC Update

Attached are the changes to the IRC update based on adding P.L. 110-317, P.L. 351, and P.L. 110-458. The changes are in blue as I thought it may be helpful in revising the update.

---

**From:** Lillethun, Chad W - DOA  
**Sent:** Tuesday, January 20, 2009 12:21 PM  
**To:** Gates-Hendrix, Sherrie L - DOR; Raes, Julie M - DOR  
**Subject:** FW: IRC Update

FYI - The LRB indicated their looking good to make the Friday deadline to have outstanding drafts finalized. However, Joe mentioned that the recent IRC update change may take up to a 1/2 day to do, so the sooner we can get instructions to them on this the better. Thanks.

-Chad

01/21/2009

---

**From:** Lillethun, Chad W - DOA  
**Sent:** Monday, January 19, 2009 3:23 PM  
**To:** Gates-Hendrix, Sherrie L - DOR; Boldt, Rebecca A - DOR; Raes, Julie M - DOR  
**Cc:** Grinde, Kirsten - DOA  
**Subject:** FW: IRC Update

Do we have drafting instructions for this proposal? I'd like to get the instructions over to the LRB, even though it still hasn't been officially determined whether this is moving forward.

Thanks.

-Chad

---

**From:** Grinde, Kirsten - DOA  
**Sent:** Thursday, January 08, 2009 5:13 PM  
**To:** Lillethun, Chad W - DOA  
**Subject:** FW: IRC

Please add this to the list of items still to discuss (along with the indexing items you sent an e-mail about earlier). We'll need to put them in front of Dave and Jenny and decide if they fall under one of the Michael/Susan general comebacks briefings or get added to the Rev Options briefing.

Thanks,

Kirsten

---

**From:** Templeton, Carrie E - DOR  
**Sent:** Thursday, January 08, 2009 3:50 PM  
**To:** Grinde, Kirsten - DOA  
**Subject:** FW: IRC

FYI

*Carrie Templeton*  
*Wisconsin Department of Revenue*  
*(608) 266-6466*  
[carrie.templeton@revenue.wi.gov](mailto:carrie.templeton@revenue.wi.gov)

\*\*\*\*Important Confidentiality Notice\*\*\*\*

This email, and any files transmitted with it, are from the Wisconsin Department of Revenue and contain information that may be confidential or legally privileged. Unless the email or attached file(s) state otherwise, this information is intended only for the use of the individual or entity to which it is addressed. If you are not the intended recipient: You are notified that reading, copying, disclosing, or distributing this email and any attached file(s), or taking any action based on the information contained in them is strictly prohibited. This email and any attached files must be deleted. Please email the sender to notify us that the information was sent to you in error.

---

**From:** Boldt, Rebecca A - DOR  
**Sent:** Tuesday, January 06, 2009 4:03 PM  
**To:** Templeton, Carrie E - DOR; Wink, Wendy L - DOR  
**Cc:** Gates-Hendrix, Sherrie L - DOR; Stock, Marcella L - DOR; Koskinen, John B - DOR  
**Subject:** IRC

Carrie:

I sent this out before the holidays and am wondering if there has been a decision to add it to the IRC? Right now, we have 2 IRC write-ups (the 2nd describes the Emergency Economic Stabilization Act only). I would recommend that we if adopt this 3rd law (Worker Retiree Recovery Act), we incorporate all of these into one document with one FE table.

You wait long enough, there's always more (and I'm not just talking holiday pounds and wrinkles):

There are actually 2 other federal (MINOR) 2008 law changes that should be incorporated into the IRC (both have minimal FE):

01/21/2009

The Fostering Connection to Success and Increasing Adoption Act: This act relates to the tax exemption for dependents, to require that an individual: (1) be younger than the taxpayer claiming the individual as a qualifying child; and (2) not have filed a joint return (other than only for a refund claim) with the individual's spouse for the taxable year in question.

The Hubbard Act: Amends the Internal Revenue Code to repeal the limitation on contributions to funeral trusts. A funeral trust is an arrangement under which an individual purchases funeral services or property necessary to provide such services for himself or for another individual from a funeral home prior to death and funds the purchase via contributions. For 2008, contributions generally cannot exceed \$9,000; however, under the Hubbard Act, there are no dollar limitations on contributions in tax years beginning after August 28, 2008. The contributions must be held, invested and reinvested by the trust solely to make payments for such services or property upon the individual's or the other trust beneficiaries' death.

So the question is:

1. Should we include the Worker Retiree Recovery Act in the budget IRC?
2. Include the Fostering Connection and Hubbard Acts?
3. Incorporate into all 1 document?

Let me know if you would like to discuss these provisions.

Rebecca

**Legislative Proposal Summary  
Wisconsin Department of Revenue  
Income, Sales & Excise Tax Division**

**Date:** January 20, 2009

**TITLE: INTERNAL REVENUE CODE UPDATE**

**DESCRIPTION OF CURRENT LAW AND PROBLEM**

Wisconsin generally conforms the tax bases for the state individual income and corporate income and franchise taxes to the bases for the federal income taxes by annually adopting changes in the Internal Revenue Code (IRC) made in the prior year. The last update of the IRC did not include provisions of Public Law 109-432, the Tax Relief and Health Care Act of 2006 (TRHCA), due to the late timing of its passage. This act should be adopted for Wisconsin purposes.

During 2007 and 2008 to date, Congress enacted fourteen bills that affect the IRC:

- Public Law 110-28 – U.S. Troop Readiness, Veteran's Care, Katrina Recovery, and Iraq Accountability Appropriations Act of 2007
- Public Law 110-140 – Energy Independence and Security Act of 2007
- Public Law 110-141 – Victims of events at Virginia Polytechnic Institute and State University
- Public Law 110-142 – Mortgage Forgiveness Debt Relief Act of 2007
- Public Law 110-166 – Tax Increase Prevention Act of 2007
- Public Law 110-172 – Tax Technical Corrections Act of 2007
- Public Law 110-185 – Economic Stimulus Act of 2008
- Public Law 110-234 – Food, Conservation and Energy Act of 2008
- Public Law 110-245 – Heroes Earnings Assistance and Relief Act of 2008
- Public Law 110-289 – Housing Assistance Tax Act of 2008 (HATA)
- Public Law 110-317 – Hubbard Act
- Public Law 110-343 – Emergency Economic Stabilization Act of 2008
- Public Law 110-351 – Fostering Connections to Success and Increasing Adoptions Act of 2008
- Public Law 110-458 – Worker, Retiree, and Employer Recovery Act of 2008

In addition, Wisconsin did not previously enact several provisions of Public Law 109-222, the Tax Increase Prevention Act of 2005 and Public Law 109-280, the Pension Protection Act of 2006. These provisions had a delayed enactment date but should be adopted at this time. The provisions are sec. 512 of Public Law 109-222 (related to eliminating the \$100,000 AGI ceiling for IRA conversions) and sec. 811 of Public Law 109-280 (relating to extending higher contribution limits for IRAs and other retirement arrangements).

**RECOMMENDATION FOR ACTION**

For taxable years beginning prior to January 1, 2009, update references in the statutes to the IRC to include the federal laws enacted as indicated above, except for:

- Sections 101, 104, 108, 109, 112, 113, 116, 118, 120, 123(a), 204, 209, 302, 303, 304, 305, 307, 401, 404, 417, and 425 of Public Law 109-432
- Sections 8212, 8221, 8233, and 8235 of Public Law 110-28
- Public Law 110-140
- Sections 11(b), (e), and (g) of Public Law 110-172
- Public Law 110-185
- Sections 15344 and 15345(a)(1) through (3) and (6) of Public Law 110-234

- Sections 110 and 113 of Public Law 110-245
- Sections 3081 and 3082 of Public Law 110-289
- Sections 109, 201, 209, 210, 303, 306, and 308 of Division B of Public Law 110-343 and sections 202, 203 (only as it relates to taxable years beginning in 2008), 305, 311, 312, 315, 317, 318, 502(a) and (b), 505, 702(a)(1)(A) as it relates to section 1400N(k) of the Internal Revenue Code, 702(d)(6), 707, 708, 710, and 711 of Division C of Public Law 110-343

Public Law 110-140 extends the FUTA surtax and provides for amortization of certain geological and geophysical expense of a major integrated oil company. The provision relating to the FUTA surtax does not affect Wisconsin. Since Wisconsin did not adopt prior changes to depreciation and amortization for fiscal reasons, Wisconsin should continue to follow the depreciation and amortization provisions in effect on December 31, 2000.

Public Law 110-185 provides for the federal economic stimulus payments and increases section 179 expensing and allows 50% bonus depreciation. The provision relating to economic stimulus payments does not affect Wisconsin. Since Wisconsin did not adopt prior changes to depreciation and expensing provisions for fiscal reasons, Wisconsin should continue to follow the depreciation and expensing provisions in effect on December 31, 2000.

For this same reason, Wisconsin should not adopt the special depreciation and expensing provisions of the laws listed above. The exceptions listed above apply to depreciation, expensing, and to extensions of provisions that Wisconsin did not previously adopt or that the department does not recommend for adoption.

Public Law 110-343 provides increased expensing and depreciation provisions. It is also recommended that these not be adopted with the exception of expensing of items relating to the Midwestern disaster area. It is also recommended that the provisions relating to the carry back of a net operating loss not be adopted. Wisconsin law provides that net operating losses can only be carried forward.

The provisions being adopted should apply for Wisconsin purposes at the same time they apply for federal purposes.

For taxable years beginning on or after January 1, 2008, define "Internal Revenue Code" to mean the federal IRC as amended to December 31, 2007, with the exceptions listed above and with the Public Laws previously enacted in 2008.

## **ADMINISTRATIVE IMPACT**

Adopting federal IRC provisions generally eases preparation of tax returns by taxpayers and tax processing and administration by DOR.

Several provisions of federal laws enacted in 2007 and 2008 took effect for federal tax purposes for 2007 and prior taxable years. Taxpayers were required to complete Schedule I when filing their Wisconsin income tax returns to account for differences between federal and Wisconsin treatment. If Wisconsin adopts these provisions retroactively, taxpayers will have to file amended returns for those taxable years.

Despite this need to file and process amended returns, DOR recommends that Wisconsin adopt the provisions of these federal laws for Wisconsin purposes at the same time as they take effect for federal purposes. This will allow Wisconsin, in most instances, to provide the same tax treatment as provided under federal law for the same taxable years.

## **FAIRNESS/TAX EQUITY**

Adopting the federal tax law changes that provide tax relief will provide this same relief for Wisconsin purposes.

In particular, members of the military will be eligible for the tax relief provided in the Heroes Earnings Assistance and Relief Act of 2008. Persons facing foreclosure on their home will be eligible for the assistance provided in the Mortgage Forgiveness Debt Relief Act of 2007. Persons affected by flooding in the Midwestern Disaster Area will benefit from provisions in the Emergency Economic Stabilization Act of 2008.

## **IMPACT ON ECONOMIC DEVELOPMENT**

Many of the federal depreciation and expensing provisions relate to specific property, such as race horses and property located in the Kansas disaster area. Not adopting these incentives is not likely to have a substantive impact on investment in Wisconsin. Adopting the provisions relating to the Midwestern disaster area will benefit those who were affected by the storms and flooding in Wisconsin.

## **FISCAL EFFECT**

FY10: - \$37.1 million; FY11: minimal; FY12: - \$2.2 million

## **DRAFTING INSTRUCTIONS**

1. Repeal secs. 71.01(6)(n), 71.22(4)(n) and (4m)(L), 71.26(2)(b)14, 71.34(1g)(n), and 71.42(2)(m), Wis. Stats.
2. Amend secs. 71.01(6)(b), 71.22(4)(o) and (4m)(m), 71.26(2)(b)15, 71.34(1g)(o), and 71.42(2)(n), Wis. Stats., to:
  - Adopt P.L. 110-28, excluding secs. 8212, 8221, 8233, and 8235 of P.L. 110-28,
  - Adopt P.L. 110-172, excluding secs. 11(b), (e), and (g) of P.L. 110-172, and
  - Adopt P.L. 110-458.
3. Amend secs. 71.01(6)(p), 71.22(4)(p) and (4m)(n), 71.26(2)(b)16, 71.34(1g)(p), and 71.42(2)(o), Wis. Stats., to:
  - Adopt P.L. 110-28, excluding secs. 8212, 8221, 8233, and 8235 of P.L. 110-28,
  - Adopt P.L. 110-172, excluding secs. 11(b), (e), and (g) of P.L. 110-172, and
  - Adopt P.L. 110-458.
4. Amend secs. 71.01(6)(q), 71.22(4)(q) and (4m)(o), 71.26(2)(b)17, 71.34(1g)(q), and 71.42(2)(p), Wis. Stats., to:
  - Adopt P.L. 110-28, excluding secs. 8212, 8221, 8233, and 8235 of P.L. 110-28,
  - Adopt P.L. 110-172, excluding secs. 11(b), (e), and (g) of P.L. 110-172, and
  - Adopt P.L. 110-458.
5. Amend secs. 71.01(6)(r), 71.22(4)(r) and (4m)(p), 71.26(2)(b)18, 71.34(1g)(r), and 71.42(2)(q), Wis. Stats., to:

- Adopt P. L. 109-432, excluding secs. 101, 104, 108, 109, 112, 113, 116, 118, 120, 123(a), 204, 209, 302, 303, 304, 305, 307, 401, 404, 417, and 425 of P.L. 109-432,
- Adopt P.L. 110-28, excluding secs. 8212, 8221, 8233, and 8235 of P.L. 110-28,
- Adopt P.L. 110-172, excluding secs. 11(b), (e), and (g) of P.L. 110-172, and
- Adopt P.L. 110-458.

6. Amend secs. 71.01(6)(s), 71.22(4)(s) and (4m)(q), 71.26(2)(b)19, 71.34(1g)(s), and 71.42(2)(r), Wis. Stats., to:

- Adopt P. L. 109-432, excluding secs. 101, 104, 108, 109, 112, 113, 116, 118, 120, 123(a), 204, 209, 302, 303, 304, 305, 307, 401, 404, 417, and 425 of P.L. 109-432,
- Adopt P.L. 110-28, excluding secs. 8212, 8221, 8233, and 8235 of P.L. 110-28,
- Adopt P.L. 110-141,
- Adopt P. L. 110-142,
- Adopt P.L. 110-172, excluding secs. 11(b), (e), and (g) of P.L. 110-172, and
- Adopt P.L. 110-458.

7. Amend secs. 71.01(6)(t), 71.22(4)(t) and (4m)(r), 71.26(2)(b)20, 71.34(1g)(t), and 71.42(2)(s), Wis. Stats., to:

- Limit each provision to taxable years that begin after December 31, 2006, and before January 1, 2008.
- Adopt P. L. 109-432, excluding secs. 101, 104, 108, 109, 112, 113, 116, 118, 120, 123(a), 204, 209, 302, 303, 304, 305, 307, 401, 404, 417, and 425 of P.L. 109-432, (Note: The affected sections currently exclude the entire P.L. 109-432. This needs to be amended to exclude only the listed sections.)
- Adopt P.L. 110-28, excluding secs. 8212, 8221, 8233, and 8235 of P.L. 110-28,
- Adopt P.L. 110-141,
- Adopt P. L. 110-142,
- Adopt P.L. 110-166,
- Adopt P.L. 110-172, excluding secs. 11(b), (e), and (g) of P.L. 110-172,
- Adopt P.L. 110-234, excluding secs. 15344 and 15345(a)(1) through (3) and (6) of P.L. 110-234,
- Adopt P.L. 110-245, excluding secs. 110 and 113 of P.L. 110-245,
- Adopt P.L. 110-289, excluding secs. 3081 and 3082 of P.L. 110-289,
- Adopt P.L. 110-343, excluding secs. 109, 201, 209, 210, 303, 306, and 308 of Division B of Public Law 110-343 and sections 202, 203, 305, 311, 312, 315, 317, 318, 502(a) and (b), 505, 702(a)(1)(A) as it relates to section 1400N(k) of the Internal Revenue Code, 702(d)(6), 707, 708, 710, and 711 of Division C of Public Law 110-343, and
- Adopt P.L. 110-458.

8. Create secs. 71.01(6)(u), 71.22(4)(u) and (4m)(s), 71.26(2)(b)21, 71.34(1g)(u), and 71.42(2)(t), Wis. Stats., to provide that for taxable years that begin after December 31, 2007, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 2007, except that the IRC:

- Excludes the provisions that were listed in secs. 71.01(6)(t), 71.22(4)(t) and (4m)(r), 71.26(2)(b)20, 71.34(1g)(t), and 71.42(2)(s), Wis. Stats., prior to their amendment in 7 above, with the exception that sec. 512 of P.L. 109-222 and sec. 811 of P.L. 109-280 should not be excluded,



- Excludes secs. 101, 104, 108, 109, 112, 113, 116, 118, 120, 123(a), 204, 209, 302, 303, 304, 305, 307, 401, 404, 417, and 425 of P.L. 109-432,
- Excludes secs. 8212, 8221, 8233, and 8235 of P.L. 110-28,
- Excludes P.L. 110-140,
- Excludes secs. 11(b), (e), and (g) of P.L. 110-172,
- Includes P.L. 110-234, except secs. 15344 and 15345(a)(1) through (3) and (6) of P.L. 110-234,
- Includes P.L. 110-245, except secs. 110 and 113 of P.L. 110-245,
- Includes P.L. 110-289, except secs. 3081 and 3082 of P.L. 110-289,
- Includes P.L. 110-317,
- Includes P.L. 110-343, except secs. 109, 201, 209, 210, 303, 306, and 308 of Division B of Public Law 110-343 and secs. 202, 203 (only as it relates to taxable years beginning in 2008), 305, 311, 312, 315, 317, 318, 502(a) and (b), 505, 702(a)(1)(A) as it relates to section 1400N(k) of the Internal Revenue Code, 702(d)(6), 707, 708, 710, and 711 of Division C of Public Law 110-343,
- Includes P.L. 110-351, and
- Includes P.L. 110-458.

The Internal Revenue Code is indirectly affected by:

- The provisions that were listed in secs. 71.01(6)(t), 71.22(4)(t) and (4m)(r), 71.26(2)(b)20, 71.34(1g)(t), and 71.42(2)(s), Wis. Stats., prior to their amendment in 7 above, with the exception that sec. 512 of P.L. 109-222 and sec. 811 of P.L. 109-280 should not be excluded,
- P.L. 109-432, excluding secs. 101, 104, 108, 109, 112, 113, 116, 118, 120, 123(a), 204, 209, 302, 303, 304, 305, 307, 401, 404, 417, and 425 of P.L. 109-432,
- P.L. 110-28, excluding secs. 8212, 8221, 8233, and 8235 of P.L. 110-28,
- P.L. 110-141,
- P.L. 110-142,
- P.L. 110-166,
- P.L. 110-172, excluding secs. 11(b), (e), and (g) of P.L. 110-172,
- P.L. 110-234, excluding secs. 15344 and 15345(a)(1) through (3) and (6) of P.L. 110-234, and
- P.L. 110-245, excluding secs. 110 and 113 of P.L. 110-245,
- P.L. 110-289, excluding secs. 3081 and 3082 of P.L. 110-289,
- P.L. 110-317,
- P.L. 110-343, excluding secs. 109, 201, 209, 210, 303, 306, and 308 of Division B of Public Law 110-343 and secs. 202, 203 (only as it relates to taxable years beginning in 2008), 305, 311, 312, 315, 317, 318, 502(a) and (b), 505, 702(a)(1)(A) as it relates to section 1400N(k) of the Internal Revenue Code, 702(d)(6), 707, 708, 710, and 711 of Division C of Public Law 110-343,
- P.L. 110-351, and
- P.L. 110-458.

9. Create a nonstatutory provision that states that changes to the Internal Revenue Code made by P.L. 110-28, excluding secs. 8212, 8221, 8233, and 8235 of P.L. 110-28, and P.L. 110-458 apply to the definitions of "Internal Revenue Code" in chapter 71 of the statutes at the time that those changes apply for federal income tax purposes.

## **EFFECTIVE DATE AND/OR INITIAL APPLICABILITY**

The provisions of changes to the IRC laws should apply for Wisconsin purposes at the same time that they apply for federal purposes.

**INTERESTED/AFFECTED PARTIES**

Businesses making investments qualifying for the federal bonus depreciation and Section 179 expensing provisions; persons paying the Wisconsin alternative minimum tax; members of the military serving in Iraq and Afghanistan and their families; persons contributing to retirement accounts.

**PREPARED BY**

Marcy Stock  
7-5023

E:Marcy/IRC update-2008

## Worker, Retiree, and Employer Recovery Act (WRERA) of 2008

The Pension Protection Act (PPA) of 2006 strengthened the funding rules for single- and multi-employer defined benefit plans to ensure the retirement plans would be adequately funded. However, under current economic conditions, many business cannot meet the new funding requirements. WRERA eases many of these rules imposed under PPA. These changes are not tax policy items, and hence do not require Wisconsin to adopt the provisions; nevertheless, they do have revenue implications to the extent that they lower contributions to retirement plans in the near term and thus raise corporate profits through FY13. It is estimated that the modifications to the funding rule included in WRERA will result in an increase in Wisconsin revenues by \$800,000 in FY10, \$1.2 million in FY11 and \$236,000 in FY12. By FY15, these provisions will result in a decrease of \$770,000 in state revenues. These impacts are not included in the table since they will occur irrespective of the Wisconsin adoption of WRERA.

### 1. **Waiver of Required Minimum Distributions from IRAs and Similar Retirement Accounts**

*Federal Law Change:* Under current law, individuals who reach the age of 70 ½ are required to make minimum distributions (RMDs) from any tax-deferred retirement savings accounts (401(k), 403(b), etc). Failure to make these RMDs results in a 50% federal excise tax as penalty; Wisconsin imposes a penalty for failure to make these RMDs equal to 33% of the federal penalty. In recognition of the downturn in the economy and the effect it has had on retirement savings accounts, WRERA waives the minimum distribution requirement for calendar year 2009 from individual retirement plans and employer-provided qualified retirement plans that are defined contribution plans. The next required distribution would be for calendar year 2010.

Failure to adopt this provision would result in the 33% Wisconsin penalty for taxpayers who take advantage of the federal law. The Wisconsin penalty will, in most cases, far outweigh the federal tax benefit of the provision, thus prompting most Wisconsin taxpayers to ignore the waiver provision and to make the RMD in calendar year 2009. Of concern is that many Wisconsin taxpayers may not realize the state tax implication of not making the RMD until after calendar year 2009. As a result, they may choose to not make the RMD in 2009 only to find they are subject to a very large state penalty.

*Effective Date:* Calendar years beginning after December 31, 2008; sunsets on December 31, 2009

*Fiscal Effect:* -\$176,000 in FY09, -\$17.9 million in FY10, -\$6.1 million in FY11.

*Note:* Should Wisconsin not adopt this provision, the revenue increase associated with the Wisconsin penalty could be significant. As an illustration, if one third of affected taxpayers would not take the RMD in 2009, the estimated fiscal impact would be a revenue increase of \$180,000 in FY09, \$18.2 million in FY10 and \$6.2 million in FY11 due to the imposition of the state penalty for violating the minimum distribution requirement.

## **2. Rollovers by Non Spouse Beneficiaries of Retirement Plan Distributions**

*Federal Law Change:* Before the PPA of 2006, the ability to roll over a decedent's interest in certain qualified plans (403(b), available to certain employees of public schools and non-profit organizations, or 457 plans, available to state and local government employees) was limited to surviving spouses. Under PPA, rollovers of distributions could be extended to non-spouse beneficiaries for distributions after December 31, 2006. WRERA clarifies that the plans must permit non-spouse rollovers from these plans to other eligible retirement plans. (Prior to WRERA, it was unclear whether PPA meant that it was voluntary on the part of the plan to allow the rollover or on the part of the beneficiary).

*Effective Date:* For tax plans beginning after December 31, 2009

*Fiscal Effect:* Minimal

## **3. Rollover of Amounts Received in Airline Bankruptcy to Roth IRAs**

*Federal Law Change:* Under WRERA, airline workers whose defined benefit pension plan was terminated or frozen due to bankruptcy (between September 11, 2001 and January 1, 2007) are allowed to rollover bankruptcy payments intended to replace lost retirement income to a Roth IRA.

*Effective Date:* Enactment

*Fiscal Effect:* Minimal.

## **4. State/Local Health Insurance Reimbursements**

*Federal Law Change:* Under current law, amounts received by a government employee from a state or local government accident or health plan are not taxable if the amounts are reimbursements for medical care expenses of the taxpayer, the taxpayer's spouse or dependents. Prior to WRERA, the IRS ruled in 2006 that these amounts would be includible in income if the plan permits amounts to be paid as medical benefits to a designated beneficiary who was other than a spouse or dependent of the employee.

Under WRERA, reimbursements under a state and local government plan for medical care expenses would continue to be excludible from income even if the plan provides for reimbursements of medical care expenses incurred by a deceased plan participant's non-spouse/non-dependent beneficiary.

*Effective Date:* Enactment

*Fiscal Effect:* Minimal

**Kreye, Joseph**

---

**From:** Lillethun, Chad W - DOA [Chad.Lillethun@wisconsin.gov]  
**Sent:** Monday, January 19, 2009 3:21 PM  
**To:** Kreye, Joseph  
**Subject:** FW: IRC Updated Draft Language  
**Attachments:** Worker RETiree REcovery Act.doc

Hi Joe.

I just left you a message concerning a recent update DOR has added to the IRC update being drafted by you. As mentioned in the message, it hasn't been officially approved to be added to your current draft, but Kirsten indicated that we should send it over to get things working given your deadlines. I also recognize that you'll need detailed drafting instructions, which aren't provided here. I've left a message with DOR to that end.

Thanks,

-Chad

---

**From:** Grinde, Kirsten - DOA  
**Sent:** Thursday, January 08, 2009 5:13 PM  
**To:** Lillethun, Chad W - DOA  
**Subject:** FW: IRC

Please add this to the list of items still to discuss (along with the indexing items you sent an e-mail about earlier). We'll need to put them in front of Dave and Jenny and decide if they fall under one of the Michael/Susan general comebacks briefings or get added to the Rev Options briefing.

Thanks,

Kirsten

---

**From:** Templeton, Carrie E - DOR  
**Sent:** Thursday, January 08, 2009 3:50 PM  
**To:** Grinde, Kirsten - DOA  
**Subject:** FW: IRC

FYI

*Carrie Templeton*  
*Wisconsin Department of Revenue*  
*(608) 266-6466*  
[carrie.templeton@revenue.wi.gov](mailto:carrie.templeton@revenue.wi.gov)

\*\*\*\*Important Confidentiality Notice\*\*\*\*

This email, and any files transmitted with it, are from the Wisconsin Department of Revenue and contain information that may be confidential or legally privileged. Unless the email or attached file(s) state otherwise, this information is intended only for the use of the individual or entity to which it is addressed. If you are not the intended recipient: You are notified that reading, copying, disclosing, or distributing this email and any attached file(s), or taking any action based on the information contained in them is strictly prohibited. This email and any attached files must be deleted. Please email the sender to notify us that the information was sent to you in error.

---

**From:** Boldt, Rebecca A - DOR  
**Sent:** Tuesday, January 06, 2009 4:03 PM  
**To:** Templeton, Carrie E - DOR; Wink, Wendy L - DOR  
**Cc:** Gates-Hendrix, Sherrie L - DOR; Stock, Marcella L - DOR; Koskinen, John B - DOR  
**Subject:** IRC

Carrie:

01/20/2009

I sent this out before the holidays and am wondering if there has been a decision to add it to the IRC? Right now, we have 2 IRC write-ups (the 2nd describes the Emergency Economic Stabilization Act only). I would recommend that we if adopt this 3rd law (Worker Retiree Recovery Act), we incorporate all of these into one document with one FE table.

You wait long enough, there's always more (and I'm not just talking holiday pounds and wrinkles):

There are actually 2 other federal (MINOR) 2008 law changes that should be incorporated into the IRC (both have minimal FE):

The Fostering Connection to Success and Increasing Adoption Act: This act relates to the tax exemption for dependents, to require that an individual: (1) be younger than the taxpayer claiming the individual as a qualifying child; and (2) not have filed a joint return (other than only for a refund claim) with the individual's spouse for the taxable year in question.

The Hubbard Act: Amends the Internal Revenue Code to repeal the limitation on contributions to funeral trusts. A funeral trust is an arrangement under which an individual purchases funeral services or property necessary to provide such services for himself or for another individual from a funeral home prior to death and funds the purchase via contributions. For 2008, contributions generally cannot exceed \$9,000; however, under the Hubbard Act, there are no dollar limitations on contributions in tax years beginning after August 28, 2008. The contributions must be held, invested and reinvested by the trust solely to make payments for such services or property upon the individual's or the other trust beneficiaries' death.

So the question is:

1. Should we include the Worker Retiree Recovery Act in the budget IRC?
2. Include the Fostering Connection and Hubbard Acts?
3. Incorporate into all 1 document?

Let me know if you would like to discuss these provisions.

Rebecca